

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EUGENE D. DANESHVAR,

Plaintiff,

v.

Case No. 2:13-cv-13096

Judge Stephen J. Murphy, III

Magistrate Judge Anthony P. Patti

DARYL R. KIPKE and
NEURONEXUS
TECHNOLOGIES, INC.,

Defendants.

**ORDER DEEMING RESOLVED IN PART AND GRANTING IN PART
DEFENDANTS' MOTION TO COMPEL (DE 77)**

Currently before the Court is Defendants' September 24, 2015 motion to compel. (DE 77.) Judge Murphy has referred this motion to me for hearing and determination. (DE 78.)

Following the October 1, 2015 telephonic status conference with counsel for the parties, I entered a briefing schedule and notice of hearing. (DE 83.) Plaintiff filed a response, and Defendants filed a reply. (DEs 85, 86.) On October 14, 2015, the parties filed a joint list of unresolved issues. (DE 89.)

On the date set for hearing, attorney Casey Lee Griffith (TX) appeared on Plaintiff's behalf, and attorney James R. Muldoon (NY) appeared on behalf of Defendants. Consistent with my findings and reasoning stated on the record,

which are hereby incorporated by this referee as though stated herein, Defendants' September 24, 2015 motion to compel (DE 77), as narrowed by the October 14, 2015 list of unresolved issues (DE 89), is **DEEMED RESOLVED IN PART** and **GRANTED IN PART** as follows:

1. **Plaintiff's Responses to Requests for Admissions (RFAs):** On October 7, 2015, Plaintiff served first amended objections and responses which deny at least 148 of the 200 RFAs. (DE 85-1, DE 86-3.) Plaintiff will not be compelled to further amend the response to address the substance of the requests. However, if Plaintiff so chooses, he may supplement his RFA answers no later than October 29, 2015.
2. **Whether Daneshvar should appear for further deposition as an expert witness:** Daneshvar shall appear for additional deposition. Defendants may redepose Plaintiff on those RFAs which he has denied or failed to unequivocally admit, and will be permitted seven (7) hours in which to do so.¹ Having seen excerpts of the transcript of Plaintiff's September 14, 2015 video deposition (DE 86-7), Plaintiff is cautioned that he should be prepared for such continued deposition and to frankly and thoroughly answer questions regarding each of his RFA responses on which Defendants have been given leave to re-depose him. Should the parties reach an impasse during the deposition, they have leave to call me for assistance.

Furthermore, Plaintiff shall reimburse Defendants for 7 hours of defense counsel's time at an hourly rate of \$395.00. This compensation is not a penalty for Plaintiff's denials of a vast majority of the RFAs. Rather, it is partial compensation for Defendants' attorney fees associated with the prosecution of this

¹ This is in addition to any deposition time which may be permitted by Judge Murphy if he accepts my October 14, 2015 report and recommendation (DE 88) regarding Defendants' motion for sanctions (DE 49).

motion and with having to yet again re-depose Plaintiff, which was necessitated by Plaintiff's delay in providing RFA answers which comply with Fed. R. Civ. P. 36. Had these answers been provided prior to Plaintiff's previous depositions, the continuation of Plaintiff's deposition may not have been necessary. This amount shall be paid to defense counsel prior to the beginning of Daneshvar's continued deposition.

IT IS SO ORDERED.

Dated: October 16, 2015

s/ Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing documents was sent to parties of record on October 16, 2015, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti